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C O N F I D E N T I A L SECTION 01 OF 04 BUENOS AIRES 001583

SIPDIS

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TAGS: EFIN ECON PREL PGOV AR
SUBJECT: ARGENTINE NATIONALIZATION OF PRIVATE PENSION
SYSTEM LOOKS INEVITABLE; METLIFE SEEKS TO MINIMIZE EFFECT
ON REPUTATION AND EMPLOYEES

REF: BUENOS AIRES 1491 AND PREVIOUS

Classified By: Ambassador E. Anthony Wayne for Reasons 1.4 (b,d)

Summary

¶1. (C) The Argentine Senate appears ready to pass the government's plan to nationalize Argentina's private pension system on November 20. The main U.S. company involved, MetLife, is "frustrated, angry, and disappointed," its officials told the Ambassador November 17. Met's priorities now are to prevent further damage to its reputation, protect its employees (many of whom may not be re-employed), and seek reasonable compensation, given that Congressional passage of the plan looks inevitable. Met executives expect the company will eventually end up in litigation or arbitration, but are not optimistic about their ability to enforce an award. They expressed great skepticism about the GoA's ability to manage well private pension fund investments once under GoA control. Met officials also speculated that the GoA will lose up to $1 billion, following a U.S. judge's November 14 decision to continue a temporary freeze on the pension funds and Argentine Social Security Agency's U.S. investments. The Ambassador noted press reports that the GoA may send an official complaint to the USG about the court decision. He also briefed Toppeta on efforts to alert senior GoA officials of USG concerns and assured Met of continued U.S. support. End Summary.

MetLife Thought It Was Making a Contribution

¶2. (C) During a November 17 meeting with the Ambassador, MetLife International President William Toppeta, Latin America President Oscar Schmidt, and Argentina Country Director Luis Lategana highlighted the deep frustration, anger, and disappointment of company officials in response to Argentine President Cristina Fernandez de Kirchner's initiative to nationalize Argentina's 14 year-old private pension system (see reftels for history of the initiative, which was announced October 21.) Toppeta noted that Met has been in Argentina since 1994, and its three companies (pensions, Annuities, Insurance) had "stuck it out through the 2001-02 financial crisis," had expanded post-crisis by purchasing Citi's pension fund (and thereby becoming the largest private pension fund -- known locally as AFJPs -- in

the market, measuring by assets), and had weathered the GoA's 2006-07 AFJP reform initiative, which resulted in Met losing 10% of its clients to the GoA's pay-as-you-go retirement system. He argued that Met's actions during this period demonstrated a positive record of contribution to Argentina.

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Met Priorities: Reputation, Employees, Compensation
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¶3. (C) Toppeta said that Met has two primary concerns, now that it seems clear that they have no chance of stopping the nationalization: the reputation of the company and the welfare of Met-Argentina employees. Toppeta commented that the GoA is already "stealing the companies, they don't need to throw dirt on their graves," and he is concerned that tough GoA tactics to force the AFJPs into accepting and cooperating with the nationalization could damage Met's reputation. (Comment: With this in mind, MetLife and New York Life, which is a minority partner in the AFJP controlled by British bank HSBC, have supplied suggested points for USG officials to use in urging the GoA to ensure a transparent and smooth transition to GoA control, minimizing controversy.)

¶4. (C) As an example of what Met is facing, Oscar Schmidt pointed out that his name was included in a list of top AFJP executives published over last weekend in local pro-government, left-of-center paper, Pagina 12. The article listed the executives' salaries and benefits, which are extremely generous by local terms, and this generated significant criticism (and attacks on the AFJPs) from the

public and within Congress. In Schmidt's opinion, this was clearly a political operation sponsored by the GoA. He also noted that he should not have been on the list, since he does not technically work for Met's AFJP. Met, therefore, issued a clarification and the company has subsequently been left out of much of the criticism leveled at individual AFJPs during Congressional hearings.

¶5. (C) MetLife's AFJP has 1,400 employees and is looking for ways to keep as many as possible employed (possibly at Met's operations in other countries), or at least taken care of. (Met Argentina has 1,600 employees total, with 200 working for its annuity and insurance companies.) Schmidt noted that the draft GoA bill calls for the Social Security Agency (ANSES), which will take over management of AFJP assets, to take on their employees. However, the reality is that ANSES is only prepared to take on up to 5,000 of the industry's 10,000 employees, and no managerial level employees.

¶6. (C) The other issue Met is focused on is getting compensation for the expropriation. Schmidt noted that the draft law, as passed in the lower house, includes a vague reference to compensation, stating that it can not exceed the level of a company's "Social Capital," which appears roughly equal to Book Value. For Met, this translates to compensation capped at about $40 million, and Schmidt pointed out that it would be paid in GoA bonds requiring GoA authorization to sell.

¶7. (C) Furthermore, he noted, the draft law makes no mention of compensation for closing costs, such as severance payments (which the AFJPs will be required to pay prior to final transfer of assets to the GoA). Schmidt estimated the fair-value of Met's AFJP at $150-200 million, based on ING's purchase in 2007 of Santander Bank's AFJP (and also based on its own expansion in 2005 through the acquisition of Citi's AFJP).

¶8. (C) Toppeta added that Met's AFJP earns $30 million per year after tax, so the value clearly is well in excess of $40 million by any measurement. Therefore, he noted, MetLife expects to end up in some kind of arbitration or litigation process with the GoA. He added, however, that "even if we

win, our ability to enforce payment is unclear" given the difficulty other foreign companies have had in enforcing both local and ICSID awards.

¶9. (C) Next Steps: Given that the nationalization announcement was a total shock, Toppeta admitted that Met has not fully analyzed what it plans to do with its remaining two companies in Argentina (annuities and insurance), which together comprise a minor share of Met-Argentina's total earnings in recent years. Toppeta commented that whether Met stays in country largely depends on the treatment they receive by the GoA over the next few months. Toppeta and Schmidt emphasized their interest in keeping a low profile, noting that there has been no positive media coverage of the AFJPs since the President's October 21 announcement. Schmidt noted that the GoA learned its lesson from the agriculture crisis earlier in the year, during which it lost control of the media message and let the situation drag on to long. "This time they control the media and are pushing it through Congress quickly," he said.

Congressional Passage Is Looking Inevitable

¶10. (SBU) With the Argentine Chamber of Deputies approval of the plan on November 7, and the Senate set to pass it November 20, the expropriation of the private system looks inevitable. On November 12, the Senate's Social Security and Treasury committees approved the draft bill sent over from the Chamber of Deputies, accepting all the Chamber's amendments and not adding any new ones. (The Chamber's main amendments specify that all pension assets, from the integrated ANSES and AFJPs, must only be used to pay retirees, must be invested in accordance with the regulations AFJPs are currently subject to, but with a prohibition on foreign investments. The amendments also establish that

ANSES will be subject to Congressional oversight, will also create an advisory board of GoA agencies, pensioners, unions, and the private sector to monitor system resources, will not receive any fees for managing funds, and will guarantee jobs to all AFJP workers, except executives.)

¶11. (SBU) The Senate is planning an open floor debate November 20, and expectations are that it will pass the same day. According to press reports, the ruling part counts that it has a solid majority of votes in favor. (Current estimates show the GoA with 42 votes, when Senate approval requires 37 of the total 72 seats.) If these estimates hold, the GoA should be able to get the law through without significant amendments. However, opposition Senators, especially those linked to opposition-controlled Provinces, are expected to call for sharing AFJP resources with the Provinces, given that the Provinces gave up a significant percentage of their revenue base in order to establish the private pension system in 1994. Speculation reported in local press is that the GoA is buying key Province Governors' support by promising increased infrastructure and other spending in their provinces.

¶12. (C) The Met execs commented that ANSES faces major shortcomings as an institutions, and they did not hold out high hopes for its ability to manage the private system assets once the GoA completes the nationalization. Lategana noted that ANSES has just one employee managing the investment decisions for the roughly $2 billion in assets that AFJPs transferred to the ANSES in 2007. Meanwhile, even the smallest AFJPs have teams of experienced professionals making all investment decisions. The Ambassador commented on a recent press report that, even after the nationalization, only a small group at ANSES (and in the GoA) will make all investment decisions. He added that not only does this mean they will probably do it poorly, but the process will assuredly be highly politicized.

U.S. Court Extends Freeze on AFJP Assets

¶13. (C) Emboffs inquired about Met reactions to Federal Judge Thomas Griesa's decision on November 14 to extend the discovery periods and continue the injunction on AFJP and ANSES investments and deposits in the U.S. (Griesa froze AFJP and ANSES assets in the U.S. in response to lawsuits filed in late October by so-called "holdout" bondholders (holders of untendered defaulted GoA debt). Schmidt and Lategana predicted that the GoA could lose up to $1 billion in AFJP and ANSES assets as a result of Griesa's decision, because by the time Griesa holds another hearing on the issue the Senate will have approved the nationalization law and the GoA will not be able to argue that they are private assets.

¶14. (C) Emboffs highlighted press allegations linked to the GoA's legal counsel, Cleary Gottlieb, that Judge Griesa made critical comments about the lack of credibility of the Argentine government and Argentine law. They further noted reports that the GoA is apparently considering whether to send an official complaint to the USG about the U.S. court decision and Griesa's comments and so-called "anti-Argentina bias." Met's Lategana commented that the AFJPs' counsel, present at the November 14 hearing, did not include any comment in their readout about inappropriate or biased comments from Judge Griesa.

U.S. Advocacy for MetLife and New York Life

¶15. (C) The Ambassador briefed Toppeta on USG efforts to date to alert senior GoA officials of USG concerns. He said that he had spoken briefly to Economy Minister Carlos Fernandez on November 13, prior to Fernandez' departure for Washington, and Fernandez said he considered it appropriate that the USG would be concerned about the impact of the nationalization on its companies. The Ambassador also noted that both State and Treasury made attempts prior to the G-20 meeting to raise agreed upon points (which originated with MetLife and NYLife)

with senior GoA officials that had accompanied Argentina's President to the meeting. (The points emphasize the importance of ensuring transparency during the transition to GoA control of AFJP assets, and also highlight U.S. expectations that the GoA adhere to its domestic and international commitments with regards to providing fair and just treatment of U.S. companies, including in the payment of appropriate compensation.)

¶16. (C) The Ambassador stated that USG officials in Washington had not succeeded in reaching appropriate GoA officials on the issue. The Ambassador assured Met of continued USG support, noting that Treasury officials still plan to deliver the points by telephone to Economy Minister Carlos Fernandez, and that the Embassy will continue to look for opportunities to deliver the message to the Economy Minister and Casa Rosada officials in Buenos Aires.
WAYNE